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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/535,264

05/17/2005

Kenichi Suzuki

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EXAMINER

CHRISS, JENNIFER A

ART UNIT

PAPER NUMBER

1771

NOTIFICATION DATE

DELIVERY MODE

09/18/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/535,264	<b>Applicant(s)</b> SUZUKI ET AL.	
	<b>Examiner</b> Jennifer A. Chriss	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Remarks and Declaration Pursuant to 37 CFR 1.132 filed on July 12, 2007 has been entered and carefully considered. Claims 1 and 4 – 15 are pending. In view of Applicant's arguments concerning the types of cross-sectional configurations taught by Clark (US 6,723,669), the Examiner has amended the previously applied rejection to further describe the Examiner's position regarding Clark. The invention as currently claimed is not found to be patentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

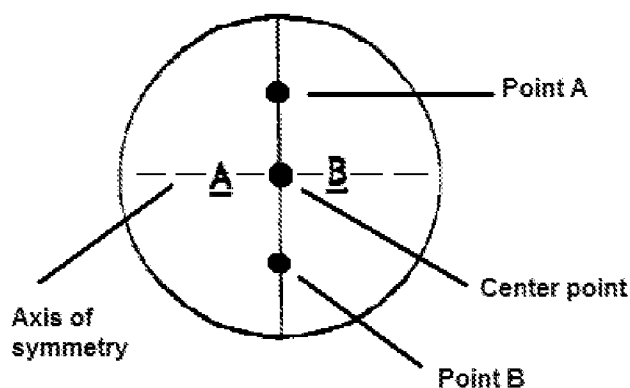
### ***Claim Rejections - 35 USC § 102/103***

3. Claims 1 and 4 - 15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over CLARK et al. (US 6,723,669 B1).

As to claims 1 and 5 – 7, CLARK et al. discloses multicomponent spunbond fibers and webs made from them. Clark et al. teach the use of various cross-sectional configurations such

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as side by side (column 3, lines 30 – 35). Specifically, in adapted Figure 4A, the side by side configuration is shown below.



**FIG. 4A**

As shown in adapted Figure 4A, the fiber is a conjugate fiber (having two different components) and the center point as required by Applicant is shown in the center of the fiber cross-section. Point A and point B are symmetric about the center point and the composition at points A and B would be the same since they are both on the center line of the side by side cross-section. The reference teaches combinations of polymer components that include polyolefin/polyolefin such as polypropylene/polypropylene. For examples fibers that comprise a first component comprising a first propylene polymer and a second component comprising a second propylene polymer wherein the second propylene polymer has narrow molecular weight distribution and a polydispersity number less than that of the first polypropylene polymer. (Refer to Col. 4, lines 58-63; Col. 5, lines 19-24) The reference also teaches that the multicomponent fibers can comprise a first component comprising a substantially crystalline polypropylene and the second component can comprise an amorphous polypropylene, that is to say a polypropylene polymer having a lower degree of crystallinity. (Col. 5, lines 63-67) In a further aspect, a first

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component can comprise a low melt-flow rate (MFR) polyolefin and a second component can comprises a high MFR olefin polymer. (Col. 7, lines 38-49) The reference further describes laminates and their use in applications such as diapers. (Col. 15, lines 47-59) It should be noted that CLARK et al. indicates that the spunbonded fibers can comprise, at least in part, a similar and/or identical polymer to that comprising one of the components of the multicomponent meltblown fabric. Still further, the spunbonded fiber can comprise polymer having the same or similar melting point as the polymer comprising the lower melting component of the multicomponent meltblown web (Co. 13, lines 45 – 55).

As to claim 4, it is the Examiner's position that the nonwoven fabric produced by the fibers of CLARK et al. will possess the claimed extensibility in the MD and/or CD for similar reasons described in the paragraph above.

As to claims 8 – 15, CLARK et al. teaches that the polymer components in a bicomponent fiber can be present in the amount ranging preferably from 75/25 – 25/75 (see column 3, lines 30 – 55).

As to claim 1, although CLARK et al. does not explicitly teach the claimed polymer components having a difference of induction periods of strain-induced crystallization of 100 seconds or longer, it is reasonable to presume that this property is inherent to polyolefin/polyolefin combinations described by the reference. Support for said presumption is found in the use of like materials (i.e. the reference teaches the use of same kind of polymers with different MFR or different degree of crystallinity used in the production of multicomponent fibers). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In

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addition, the presently claimed property of polymer components having a difference of induction periods of strain-induced crystallization of 100 seconds or longer would obviously have been present one the CLARK et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote 4 (CCPA 1977). It is noted that the disclosure of the present application describe combinations of polymers having different MFR and different melting points; and polymers having different MFR and the same melting points as polymers having different induction periods of strain-induced crystallization. (as described in [0025]-[0028] of Pub. No. 2006/0052022 A1). It is the Examiner's position that the combinations described above meet the description provided, therefore, must have the claimed difference in induction periods of strain-induced crystallization.

***Response to Arguments and Declaration under 37 CFR 1.132***

4. Applicant's arguments filed July 12, 2007 have been fully considered but they are not persuasive.
5. Applicant argues that Clark et al. does not teach a symmetric cross-section fiber. The Examiner agrees that the cross-section of the fiber shown in Figure 4B cannot be considered a symmetric cross-section. However, as explained in the revised rejection above, the cross-section of the fiber in Figure 4A does meet Applicant's claimed limitations. As shown in adapted Figure 4A, the fiber is a conjugate fiber (having two different components) and the center point as required by Applicant is shown in the center of the fiber cross-section. Point A and point B are symmetric about the center point and the composition at points A and B would be the same since they are both on the center line of the side by side cross-section.

6. Applicant argues that physical properties of a non-woven fabric obtained by meltblowing and spunbonding are clearly different. The Examiner understands the difference between the two processes, however, it should be noted that Clark et al. clearly establishes that at least a layer in the multi-layered composite can be spunbonded. It should be noted that CLARK et al. indicates that the spunbonded fibers can comprise, at least in part, a similar and/or identical polymer to that comprising one of the components of the multicomponent meltblown fabric. Still further, the spunbonded fiber can comprise polymer having the same or similar melting point as the polymer comprising the lower melting component of the multicomponent meltblown web (Co. 13, lines 45 – 55). It is the position of the Examiner that the polymers used and configurations of the cross-section of the meltblown fibers also apply to the spunbonded fibers.

7. Applicant argues that the spunbonded process of the instant invention is different from a traditional spunbonding process. Applicant points to Tables 4 and 5 of the Specification for support. However, the Applicant fails to clearly distinguish the difference between the products, particularly within the claim language.

8. The Declaration under 37 CFR 1.132 filed July 17, 2007 is insufficient to overcome the rejection of claims 1 and 4 - 15 based upon Clark as set forth in the last Office action because: the data is based on a eccentric cross-section fiber and not specifically using a side-by-side cross-section fiber, which is the fiber cross-section relied upon in the Clark et al. rejection. The data is not considered to be persuasive.

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A. Chriss whose telephone number is 571-272-7783.

The examiner can normally be reached on Monday - Friday 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571 - 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer A Chriss/

Examiner, Art Unit 1771

September 6, 2007

/Terrel Morris/

Terrel Morris

Supervisory Patent Examiner

Group Art Unit 1771